

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 23-3086

UNITED STATES OF AMERICA,

Appellee,

v.

RICHARD BARNETT, A/K/A BIGO,

Appellant.

JOINT MOTION TO GOVERN FUTURE PROCEEDINGS

Appellee, the United States of America, and appellant, Richard Barnett, jointly file this motion to govern future proceedings and move the court to order a briefing schedule as proposed below.

This appeal arises in part from Barnett's conviction under 18 U.S.C. § 1512(c)(2), based on his participation in the January 6, 2021, events at the United States Capitol. On January 23, 2024, before any briefs had been filed, the Court held this case in abeyance pending the Supreme Court's disposition of *Fischer v. United States*, No. 23-5572, which addressed the scope of Section 1512(c)(2). The parties were ordered to file motions to govern further proceedings within 30 days of the *Fischer* decision.

On June 28, 2024, the Supreme Court decided *Fischer*, holding that Section 1512(c)(2) requires proof that the defendant impaired or attempted to impair “the availability or integrity for use in an official proceeding of records, documents, objects, or . . . other things used in the proceeding.” *Fischer v. United States*, 144 S. Ct. 2176, 2190 (2024). On July 26, 2024, the Court continued the abeyance of the appeal, ordering the parties to file motions to govern further proceedings by August 28, 2024.

The parties now jointly propose the following schedule:

Appellant’s Opening Brief: November 26, 2024

Appellee’s Brief: December 26, 2024

Appellant’s Reply Brief: January 16, 2025

WHEREFORE, the parties jointly request that the Court order the parties to file briefs on the proposed schedule or such other schedule as the Court determines would be just and efficient.

Respectfully submitted,

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/s/

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CERTIFICATE OF COMPLIANCE WITH RULE 27(d)

I HEREBY CERTIFY pursuant to Fed. R. App. P. 32(g) that this motion contains 257 words, and therefore complies with the type-volume limitation of Fed. R. App. P. 27(d)(2)(A). This motion has been prepared in 14-point Century Schoolbook, a proportionally spaced typeface.

/s/

T. DIETRICH HILL
Assistant United States Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have caused a copy of the foregoing motion to be served by electronic means, through the Court's CM/ECF system, upon counsel for appellant, Courtney L. Millian, Courtney_Millian@fd.org, on this 26th day of August, 2024.

/s/

T. DIETRICH HILL
Assistant United States Attorney